F I L E D
United States Court of Appeals
Tenth Circuit

NOV 1 2001

PATRICK FISHER
Clerk

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

BETTY DOVE WRIGHT,
asrthe
Plaintiff-Appellant,

v.

JOHN MATTHEW STROHMAN,
South Dakota Assistant Attorney General, in his individual and official capacity,

Defendant-Appellee.

No. 01-1116
(D.C. No. 00-CV-699)
(D. Colo.)

ORDER AND JUDGMENT *

Before **HENRY** , **PORFILIO** , and **MURPHY** , Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

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* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Appellant Betty Dove Wright appeals the district court's dismissal of her civil rights complaint on grounds of absolute immunity. She asserts that appellee and his counsel have misrepresented the law and the facts in this case in order to defraud the court and intentionally deprive her of her rights. She contends that South Dakota has consented to be sued here in light of appellee's alleged intentional misconduct.

We have jurisdiction over this appeal by virtue of 28 U.S.C. § 1291. Our review of the district court's dismissal of appellant's complaint pursuant to Fed. R. Civ. P. 12(b)(6) is *de novo* . *Sutton v. Utah State Sch. for the Deaf & Blind* , 173 F.3d 1226, 1236 (10th Cir. 1999). After careful review of the entire record on appeal, including all pleadings and briefs before this court, and after consideration of the applicable law, we conclude that the district court correctly decided this case.

Appellee moves for sanctions against appellant for costs and fees in defending this appeal and for filing restrictions against appellant pursuant to Fed. R. App. P. 38, 28 U.SC. § 1651(a), and the court's inherent power to impose sanctions. We agree with appellee that appellant's arguments on appeal are frivolous. Nonetheless, this is appellant's first appeal to this court and we decline to grant appellee's motion for sanctions at this time. As did the district court, however, we warn appellant against filing future frivolous appeals in this court

concerning matters that have already been litigated in her numerous suits in connection with her 1988 arson conviction.

The judgment of the United States District Court for the District of Colorado is AFFIRMED.

Entered for the Court

Robert H. Henry
Circuit Judge